

File Atlas Minerals  
Mines

LAW OFFICES OF  
VAN COTT, BAGLEY, CORNWALL & MCCARTHY

A PROFESSIONAL CORPORATION

SUITE 1600

50 SOUTH MAIN STREET

SALT LAKE CITY, UTAH 84144

TELEPHONE (801) 532-3333

ADDRESS ALL CORRESPONDENCE TO

POST OFFICE BOX 3400

84110-3400

May 25, 1982

HAND DELIVERED

JIM

MAY 25 1982

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BENNETT, HARKNESS, HOWAT  
SUTHERLAND & VAN COTT  
1896-1902

SUTHERLAND, VAN COTT & ALLISON  
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VAN COTT, ALLISON & RITER  
1907-1917

VAN COTT, RITER & FARNSWORTH  
1917-1947

OF COUNSEL  
CLIFFORD L. ASHTON  
GEORGE M. MCILLAN  
EDWIN J. SKEEN  
RICHARD C. SKEEN

DENNIS MCCARTHY  
LEONARD J. LEWIS  
DAVID E. SALISBURY  
GRANT MACFARLANE, JR.  
MAX B. LEWIS  
M. SCOTT WOODLAND  
NORMAN S. JOHNSON  
DAVID L. GILLETTE  
RICHARD K. SAGER  
STEPHEN D. SWINDLE  
ROBERT D. MERRILL  
RICHARD H. STAHL  
ALAN F. MECHAM  
BRENT J. GIAUQUE  
E. SCOTT SAVAGE  
DENNIS B. FARRAR  
CHRIS WANGSGARD  
JOHN S. KIRKHAM

KENNETH W. YEATES  
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GREGORY K. ORME  
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PATRICIA M. LEITH  
KATE LAHEY

DAVID J. JORDAN  
ERVIN R. HOLMES  
MICHAEL N. EMERY  
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JEFFREY C. COLLINS  
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ELIZABETH A. WHITSETT

Mr. James W. Smith, Jr.  
Coordinator  
Mined Land Development  
DOGM  
Room 4241, State Office Building  
Salt Lake City, Utah 84114

Re: Atlas Reclamation Contract

Dear Jim:

Enclosed please find a draft petition for approval of a reclamation contract for Atlas' support operations. We have attempted to structure the contract and supporting materials in such a way that the Board and Division staff will be satisfied that Atlas is a responsible operator. In addition, as noted in the petition, we have committed to update the supporting data on an annual basis.

The draft petition for approval of the contract details the basis for the contract, drawing on the experience of other regulatory agencies with self-bonding. We would appreciate your comments on the draft petition.

We will be in touch as soon as you and your staff have had an opportunity to review the enclosed materials.

Very truly yours,

  
James A. Holtkamp

JAH:bb

Enclosures

cc: Mr. Richard Weaver (w/encl)  
Mr. Richard Blubaugh (w/encl)



BEFORE THE BOARD OF OIL, GAS AND MINING

ATLAS CORPORATION,	)	PETITION FOR APPROVAL OF
	)	SURETY CONTRACT
Petitioner.	)	
_____	)	Cause No. _____

ATLAS CORPORATION ("Atlas") hereby petitions the Board of Oil, Gas, and Mining (the "Board") for approval of the attached surety contract covering Atlas' operations in the State of Utah. This Petition is submitted under Utah Code Ann. §40-8-14 and Rule M-5 of the Rules and Regulations of the Board. In support of this Petition, Atlas declares as follows:

1. Atlas is a Delaware Corporation with its headquarters in Princeton, New Jersey. The Atlas Minerals Division of Atlas is headquartered in Moab, Utah, and is principally engaged in the mining and processing of uranium ores in Utah and Colorado.

2. Atlas' mining operations in Utah are described on Exhibit A to the attached proposed surety contract.

3. Atlas is either the owner or lessee of the mining operations described on Exhibit A to the attached proposed surety contract.



4. The amount of surety represented by the contract will be that determined by the Board after consideration of Atlas' reclamation plans at its mines.

5. The reclamation activities covered by the surety contract are described in the reclamation plans submitted by Atlas to the Board, as shown on Exhibit B to the attached proposed surety contract.

6. Atlas has the financial capability to carry out the reclamation obligations under its reclamation contracts, as evidenced by the most current Form 10-K submitted by Atlas to the United States Securities and Exchange Commission, a copy of which is attached hereto and by this reference made a part hereof.

7. Atlas has the capability to supervise and carry out necessary reclamation work, having a professional staff under the direction of the Atlas Minerals Regulatory Affairs Manager.

8. Atlas will submit to the Board a copy of each 10-K form as it is filed with the Securities and Exchange Commission annually.

WHEREFORE, Atlas petitions the Board for approval of the attached surety contract.

- DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

VAN COTT, BAGLEY, CORNWALL & McCARTHY

By \_\_\_\_\_

James A. Holtkamp  
Attorneys for Atlas  
P. O. Box 3400  
50 South Main Street, Suite 1600  
Salt Lake City, Utah 84110-3400  
Telephone: (801) 532-3333



BEFORE THE BOARD OF OIL, GAS AND MINING

ATLAS CORPORATION,	)	MEMORANDUM IN SUPPORT OF
	)	PETITION FOR APPROVAL OF
Petitioner.	)	SURETY CONTRACT
_____	)	Cause No. _____

ATLAS CORPORATION ("Atlas") hereby submits this Memorandum in Support of Atlas' Petition for Approval of Surety Contract.

I.

INTRODUCTION

The self-bonding of reclamation obligations is one of a number of alternative surety arrangements authorized under the Utah Mined Land Reclamation Act. The proposed surety contract and supporting materials offered by Atlas for approval by the Board are intended to determine whether self-bonding as presented by the proposed surety contract is appropriate.

The Mined Land Reclamation Act allows the Board to approve a form of surety which may include "a written contractual agreement" (Utah Code Ann. §40-8-14(3)). In addition, the Board is required to consider the operator's financial status, assets within the state, history of performance, and facilities to carry out the work (Id.) The Petition and supporting materials are intended to assist the Board in evaluating these factors as they may relate to self-bonding by Atlas for its reclamation obligations.



## II.

### SUPPORTING DOCUMENTATION

The purpose of the copies of Securities and Exchange Commission filing accompanying the proposed contract is to ensure that the Board has all of the available data with regard to the financial health of Atlas. The Securities and Exchange Commission rules require strict full disclosure of a corporation's financial structure including not only profit and loss information, but also information with regard to management, outstanding litigation or enforcement, company holdings, and other similar information.

The Board should approve the Petition if the materials submitted with the Petition demonstrate that Atlas has net worth sufficient to satisfy the reclamation obligations, has assets in the State of Utah sufficient to satisfy a judgment for reclamation should it be necessary to litigate the self-bonding agreement, and has the physical capability to supervise and complete reclamation.

## III.

### OTHER SELF-BONDING REGULATIONS

Self-bonding arrangements are not unique. For example, the Environmental Protection Agency, the Office of Surface Mining Reclamation and Enforcement, and the Wyoming Department



of Environmental Quality all have self-bonding regulations. In addition, the Nuclear Regulatory Commission is actively considering a self-bonding proposal for uranium mill tailings.

All of the existing self-bonding regulations are based on the necessity to satisfy the regulatory authority of the financial stability of the applicant. The various financial criteria in these regulations are tailored to the particular purpose of the regulation. For example, in the Environmental Protection Agency regulations (40 CFR Part 264 (Subpart H) and 265 (Subpart H); 47 Fed. Reg. 15032-15074 (April 7, 1982)), the EPA has established detailed financial test criteria to support the financial assurance relating to closure and post-closure of hazardous waste treatment, storage, and disposal facilities. The financial tests consist of two basic alternatives, one of which is tied to the bond rating used by Standard and Poor's or Moody's. In its preamble to the regulations, the EPA indicates that the purpose of the bond rating criteria is to accommodate utilities, which, because of unique financial structures, cannot use the more traditional financial criteria (47 Fed. Reg. 15034).

It should be noted that the EPA regulations are designed not only to provide for financial assurance for the closure of a hazardous waste management facility but also to



provide assurance for the post-closure maintenance of the facility. In addition, the EPA is concerned with literally thousands of hazardous waste management facilities, with the result that it cannot deal with case-by-case determinations as well as an agency which regulates a much smaller number of facilities.

The OSM self-bonding regulations (30 CFR Subchapter J; 45 Fed. Reg. 52306 (August 6, 1980)) require not only evidence of financial stability for self-bonding, but also collateral or security interests in favor of OSM sufficient to guarantee the self-bond. OSM operates under a very detailed and extensive set of reclamation regulations which do not allow much flexibility with regard to designing a reclamation plan. As a result, OSM has imposed a very strict set of self-bonding regulations. It should be noted, however, that OSM has proposed new bonding regulations (40 Fed. Reg. 45082 (September 30, 1981)) which would eliminate the requirement for putting up personal or real property as collateral to back the self-bonding arrangement.

The NRC is considering self-bonding regulations for uranium mill tailings reclamation. At this point, the NRC has not formally made any proposal, although it has indicated it is examining a number of self-bonding regulations. It should be



noted that the NRC is concerned not only with reclamation of mill tailings but also with long-term stabilization and maintenance. In particular, the Uranium Mill Tailings Control and Reclamation Act requires the transfer of tailings to the Federal or State government, as appropriate, to ensure long-term stability.

#### IV.

##### ATLAS' SURETY

In comparing self-bonding regulations with Atlas' Petition, a number of important considerations should be kept in mind. First, the Board of Oil Gas and Mining oversees a relatively small number of operations. As a result, it is easier for the Board to make decisions on a case-by-case basis. In addition, the purpose of the Mined Land Reclamation Act is to require reclamation of disturbed lands, after which the operator will essentially be under no further obligation insofar as involvement with the reclaimed lands is concerned. This means that the financial burdens surrounding reclamation will essentially disappear after reclamation is complete.

The Petition and proposed surety contract submitted by Atlas not only satisfy the statutory and regulatory requirements for surety established under the Mined Land Reclamation Act, but also are consistent with the regulations of other government agencies concerned with reclamation and stabilization



of disturbed sites. The supporting financial information indicates Atlas' stability as a corporate entity. As periodic reports are filed with the Board in the form of Atlas' annual 10-K, the Board will be able to monitor the company's financial stability for purposes of assuring that the necessary reclamation can be completed.

Based on the foregoing, the surety contract should be approved by the Board.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

VAN COTT, BAGLEY, CORNWALL & MCCARTHY

By \_\_\_\_\_

James A. Holtkamp  
Attorneys for Petitioner  
P. O. Box 3400  
50 South Main Street, Suite 1600  
Salt Lake City, Utah 84110-3400  
Telephone: (801) 532-3333



MINED LANDS SURETY CONTRACT

THIS CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between Atlas Corporation, a Delaware corporation (hereinafter called the "Operator"), and the Board of Oil, Gas, and Mining, duly authorized and existing by virtue of the laws of the State of Utah (hereinafter called the "Board").

W I T N E S S E T H:

WHEREAS, the Operator is the owner or lessee and is in possession of certain mines and associated workings in the State of Utah (hereinafter called the "Mines"), which are more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof; and

WHEREAS, the operator has filed Notices of Intention to Commence Mining Operations and Mining and Reclamation Plans for the Mines, as listed on Exhibit "B" attached hereto and by this reference made a part hereof; and

WHEREAS, the aforesaid Notices and Plans have been approved by the Board or are pending approval by the Board as shown on Exhibit "B"; and

WHEREAS, the Operator is able and willing to conduct



reclamation operations at the Mines in accordance with the requirements specified in the aforesaid Notices and Plans, the Mined Land Reclamation Act, and the rules and regulations adopted in connection therewith; and

WHEREAS, the Board has considered the factual information and recommendations provided by the staff of the Division of Oil, Gas, and Mining as to the magnitude, type and costs of the approved reclamation activities planned for the Mines; and

WHEREAS, the Board is cognizant of the nature, extent, duration of the operations at the mines, the Operator's financial status, and the Operator's ability to carry out the planned work.

NOW, THEREFORE, in consideration of the promises and covenants herein contained the Operator and the Board hereby agree as follows:

1. The Operator agrees to reclaim the land affected by mining activities at the Mines in accordance with the Operator's approved Mining and Reclamation Plans listed in Exhibit "B", and any future amendments or additions thereto, the Mined Land Reclamation Act, and the Regulations adopted under said Act.

2. The Operator and the Board agree that, except as specifically provided herein, reclamation of the land affected by mining activities at the Mines shall be governed only by the



Mining and Reclamation Plans listed in Exhibit "B" and any future amendments or additions thereto as approved by the Board, along with applicable laws and regulations.

3. The Operator shall be an independent contractor and as such shall have no authorization to bind the State of Utah or the Board to any agreement except as herein set forth.

4. The Operator agrees to hold harmless the State of Utah, the Board, and the Division of Oil, Gas, and Mining from claims for personal injury or death, damages to personal property and liens of workmen and materialmen, howsoever caused, in performance of this contract.

5. In lieu of accepting a bond or cash surety, the Board agrees to accept the Operator's personal guarantee as set forth in this contract, to reclaim the land affected by the Mines in accordance with the Operator's Mining and Reclamation Plans listed in Exhibit "B" and any future amendments or additions thereto, as approved by the Board.

6. The amount to cover cost of reclamation for which this contract is a personal obligation shall be that amount approved by the Division of Oil, Gas, and Mining, with the right Operator to review the same before the Board after notice and hearing. Operator hereby accepts the amount so approved as part of this contract and agrees to be bound thereby after the Division's decision approving the amount becomes final under



applicable law. The Division may approve a revision to the amount during the life of this contract to take into account changes in costs and changes in the actual conditions at any or all of the Mines. Any such revision so approved may be reviewed by the Board upon request of the Operator after notice and hearing.

7. This Contract shall fulfill the Operator's obligations under Section 40-8-14, Utah Code Annotated, and Rule M-5 of the Board's Regulations.

8. If the Operator does not comply with its obligations under this Contract as to any of the Mines, the Board shall give to the Operator a notice of noncompliance and shall initiate proceedings to revoke the approval of the Notice of Intention to Commence Mining Operations relating to the mine which is not in compliance with this Contract. Such proceedings shall be governed by applicable law.

9. If the Mined Land Reclamation Act, the regulations adopted thereunder, or any other statute or regulation, are amended to remove the legal requirement serving as the basis for any provision of this Contract, the Operator will no longer be required to comply with such provision of the Contract. Nothing herein, however, shall be deemed to relieve the Operator from compliance with applicable laws and regulations



relating to reclamation of land affected by the operations of any of the mines.

10. This Contract shall not supersede any individual surety contract currently in force between Atlas and the Board unless Atlas requests and the Division or Board, as appropriate, approves the revocation of such contract.

IN WITNESS WHEREOF, the parties hereto have respectively set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

ATTEST:

ATLAS CORPORATION

SEAL

BOARD OF OIL, GAS, AND MINING

STATE OF UTAH

)

:

ss.

COUNTY OF

)

On the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, personally appeared before me \_\_\_\_\_ who, being by me duly sworn, did say that he is the \_\_\_\_\_



\_\_\_\_\_ of Atlas Corporation, a corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said \_\_\_\_\_ acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

Residing at: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_, Secretary of the Board of Oil, Gas, and Mining of the State of Utah, hereby certifies that the foregoing Surety Agreement was approved by the Board on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in Cause No. \_\_\_\_\_.

\_\_\_\_\_



EXHIBIT A

1. Mines operated by Atlas:

Calliham/Sage

Dunn

Far West

Four Corners

Pandora

Patti Ann

Probe

Rim Columbus

Snow

Standard I

Velvet

Wood Lease

2. Mines owned or leased by Atlas but operated by someone other than Atlas:

Cactus Rat

Cane Creek

Happy Jack

Ivy

Locust Spider

Louise

Radium King

Standard II

Windfall



EXHIBIT B

Mines subject to approved notices of intent:

Dunn	11/7/77
Ivy	2/3/79
Locust Spider	4/20/77
Louise	9/28/78
Pandora	4/20/77
Patti Ann	9/24/76
Probe	4/13/77
Radium King	3/22/77
Rim Columbus	3/22/77
Standard II	10/27/78
Velvet	11/29/79
Windfall	4/20/77